रजिस्ट्री सं० डी-(डी)-72 REGISTERED No. D-(D)-72

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II—खण्ड 2
PART II—Section 2
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं० 16] नई दिल्ली, मंगलवार, जनवरी 27, 1976/माघ 7, 1897
No. 16] NEW DELHI, TUESDAY, JANUARY 27, 1976/MAGHA 7, 1897

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

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LOK SABHA

The following Bills were introduced in Lok Sabha on the 27th January, 1976:—

BILL No. 26 OF 1976

A Bill to repeal the Parliamentary Proceedings (Protection of Publication) Act, 1956.

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Parliamentary Proceedings (Protection of Publication) Repeal Act, 1976.

(2) It shall be deemed to have come into force on the 8th day of December, 1975.

Repeal of Act 24 of 1956 and saving.

2. The Parliamentary Proceedings (Protection of Publication) Act, 1956, shall stand repealed:

Provided that such repeal shall not affect any proceedings, civil or criminal (whether pending immediately before the commencement of this Act or instituted or taken after such commencement) in respect of—

(a) any publication referred to in sub-section (1) of section 3 of the said Act made before such commencement; or

(*b*) any report or matter broadcast, before such commencement, by the means referred to in section 4 of the said Act,

and accordingly any such proceedings shall be disposed of as if the said Act had continued in force and this Act had not been passed.

Repeal.

3. The Parliamentary Proceedings (Protection of Publication) Repeal Ordinance, 1975, is hereby repealed. **25 of 1975.**

STATEMENT OF OBJECTS AND REASONS

The Parliamentary Proceedings (Protection of Publication) Act, 1956 was intended to protect persons against any proceedings, civil or criminal, in any court in respect of the publication of substantially true reports of any proceedings of either House of Parliament, provided the publication was without malice and was for the public good. Article 105(2) of the Constitution gives immunity to Honourable Members of Parliament against all court proceedings in respect of anything said on the floor of the House and, consequently, to the publication of such statements by or under the authority of the House. The Parliamentary Proceedings (Protection of Publication) Act, 1956 extended the scope of this constitutional immunity by bringing within its orbit the entire press of the country. This legislation was enacted at a time when the Press Commission had, in its Report submitted in 1954, placed very high hope in the capacity of the Press in India to exercise full self discipline and restraint. The actual experience proved to be that the privilege given by the Act was misused frequently and systematically. Many newspapers reported with impunity, often on the front page and with banner headlines, such motivated and wrong charges, levelled in the Parliament against different persons, as would have invoked the laws of the land. Because of the protection afforded by this law to the Press the persons affected were deprived of the remedy the country's laws promised, to vindicate their personal honour. The misuse of this privilege assumed extraordinary proportions during the last three years. Such publications had the effect of eroding public morale and waekening the confidence of the people in Parliament and the democratically constituted Government.

It was, therefore, considered necessary to repeal the Act. Since Parliament was not in session and immediate action was necessary, the President promulgated the Parliamentary Proceedings (Protection of Publication) Repeal Ordinance (No. 25 of 1975) on 8th December, 1975. The Bill seeks to replace the aforesaid Ordinance.

NEW DELHI; VIDYA CHARAN SHUKLA.

The 16th January, 1976.

BILL NO. 28 OF 1976.

A Bill to provide against the printing and publication of incitement to crime and other objectionable matter.

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (*1*) This Act may be called the Prevention of Publication of Objectionable Matter Act, 1976.

(*2*) It extends to the whole of India.

(*3*) It shall be deemed to have come into force on the 8th day of December, 1975.

Definitions and construction.

2. (1) In this Act, unless the context otherwise requires,—

(a) "book" includes every volume, part or division of a volume, pamphlet and leaflet, in any language, and every sheet of music, map, chart or plan separately printed, lithographed or otherwise mechanically produced;

2 of 1974. (b) "Code" means the Code of Criminal Procedure, 1973;

(c) "competent authority" means a competent authority appointed under section 4;

(d) "document" includes also any painting, drawing or photograph or other visible representation;

(e) "newspaper" means any periodical work containing public news or comments on public news;

(f) "news-sheet" means any document other than a newspaper containing public news or comments on public news;

(g) "press" means a printing press, and includes all plant, machinery, duplicators, types, implements and other materials used for the purpose of, or in connection with, printing or multiplying documents;

(h) "Press Registration Act" means the Press and Registration
25 of 1867. of Books Act, 1867;

(i) "State Government", in relation to a Union territory, means the administrator thereof appointed under article 239 of the Constitution;

(j) "unauthorised newspaper" means—

(i) any newspaper in respect of which security has been required under this Act but has not been furnished as required, or

(ii) any newspaper which is published without conforming to the rules laid down in section 5 of the Press Registration Act;

(k) "unauthorised news-sheet" means any news-sheet in respect of which security has been required from the publisher thereof under this Act but has not been furnished as required or any news-sheet which does not contain the name of the printer and the publisher;

(l) "undeclared press" means any press other than a press in respect of which there is for the time being a valid declaration under section 4 of the Press Registration Act;

(m) any expression used but not defined in this Act shall,—

(i) if such expression is defined in the Code, have the same meaning as in the Code; and

(ii) if such expression is not defined in the Code but defined in the Indian Penal Code, have the same meaning as in the
45 of 1860. Indian Penal Code.

(2) For the purposes of this Act, where different editions of the same newspaper or news-sheet are published, each such edition shall be deemed to be a separate newspaper or news-sheet.

(3) Any reference in this Act to any law which is not in force in any area shall, in relation to that area, be construed as a reference to the corresponding law, if any, in force in that area.

(4) Any reference in this Act to any officer or authority shall, in relation to any area in which there is no officer or authority with the same designation, be construed as a reference to such officer or authority as may be specified by the Central Government by notification in the Official Gazette.

"Objectionable matter" defined.

3. In this Act, the expression "objectionable matter" means any words, signs or visible representations—

(*a*) which are likely to—

(*i*) bring into hatred or contempt, or excite disaffection towards, the Government established by law in India or in any State thereof and thereby cause or tend to cause public disorder; or

(*ii*) incite any person to interfere with the production, supply or distribution of food or other essential commodities or with essential services; or

(*iii*) seduce any member of the Armed Forces or the Forces charged with the maintenance of public order from his allegiance or his duty or prejudice the recruiting of persons to serve in any such Force or prejudice the discipline of any such Force; or

(*iv*) promote disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities; or

(*v*) cause fear or alarm to the public or to any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquillity; or

(*vi*) incite any person or any class or community of persons to commit murder, mischief or any other offence; or

(*b*) which—

(*i*) are defamatory of the President of India, the Vice-President of India, the Prime Minister or any other member of the Council of Ministers of the Union, the Speaker of the House of the People or the Governor of a State; or

(*ii*) are grossly indecent, or are scurrilous or obscene or intended for blackmail.

Explanation I.—Comments expressing disapprobation or criticism of any law or of any policy or administrative action of the Government with a view to obtain its alteration or redress by lawful means, and words pointing out, with a view to their removal by lawful means, matters which are producing, or have a tendency to produce disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, shall not be deemed to be objectionable matter within the meaning of this section.

Explanation II.—In considering whether any matter is objectionable matter under this Act, the effect of the words, signs or visible representations, and not the intention of the keeper of the press or the publisher or editor of the newspaper or news-sheet, as the case may be, shall be taken into account.

Appointment of competent authorities.

4. (*1*) The Central Government may, by notification in the Official Gazette, appoint such officers (being officers of the Central Government, not below the rank of a Deputy Secretary to that Government, or officers of State Governments or Administrations of Union territories not below the rank of a District Magistrate) as it deems fit to be competent authorities for the purposes of this Act and specify the local limits of their jurisdiction.

(*2*) An officer appointed under sub-section (*1*) may exercise the powers of a competent authority under this Act in relation to presses situated and newspapers and news-sheets published within the local limits of his jurisdiction, the keepers of such presses and the publishers and editors of such newspapers.

CHAPTER II

PROHIBITION OF PREJUDICIAL PUBLICATIONS

Power to control prejudicial publications.

5. (*1*) The Central Government or the competent authority, if satisfied that such action is necessary for the purpose of preventing or combating—

(*a*) any activity prejudicial to the interests of sovereignty and integrity of India, security of the State, friendly relations with foreign States, public order, decency or morality; or

(*b*) any activity involving, or likely to involve or culminate in incitement to offences,

may, by order in writing, addressed to the keeper of any press or any publisher or editor, prohibit the printing or publication in any document or any class of documents of any matter relating to a particular subject or class of subjects for a specified period (not exceeding two months from the date of communication of the order) or in a particular issue or issues of a newspaper or periodical.

(*2*) An order made under sub-section (*1*) shall not take effect until it is communicated to the person against whom it is made.

(*3*) When any order is made by the competent authority under sub-section (*1*) against any person, the competent authority shall forthwith report the fact to the Central Government together with the grounds on which the order has been made and such other particulars as in his opinion have a bearing on the matter and the Central Government may, if satisfied after making such inquiry, if any, as it may deem fit, that it is proper so to do, set aside such order or modify such order to the advantage of such person.

(4) Without prejudice to the provisions of sub-section (*3*), any person aggrieved by an order made under sub-section (*1*) may, within ten days of the communication of the order to him, make a representation to the Central Government and the Central Government may, after making

such inquiry as it may deem fit and after taking into account the action, if any, taken by it under sub-section (3) in respect of such order, dispose of the matter confirming, modifying or setting aside the order or, as the case may be, confirming such action:

Provided that if the person making the representation makes a request in his representation that he should be given an opportunity to be heard, the Central Government shall not dispose of the matter without giving to such person such opportunity.

(5) If within a period of seven days from the date of receipt of a representation under sub-section (4) the Central Government fails to confirm, modify or set aside the order against which the representation is made, the order shall, unless sooner set aside under sub-section (3), be deemed to have been set aside on the expiry of that period.

Explanation.—In computing the said period of seven days,—

(a) public holidays, that is to say, days on which the offices of the Central Government remain closed; and

(b) any time allowed to the person making the representation in compliance with his request to be heard; and

(c) any period during which the representation could not be disposed of by reason of any injunction or order of any court (including the day on which such injunction or order was issued or made and the day on which it was withdrawn),

shall be excluded.

Forfeiture of publications made in contravention of orders under section 5.

6. In the event of disobedience of an order made under section 5, the Central Government or the competent authority issuing the order may, without prejudice to any other penalty, to which the person guilty of the disobedience of the order is liable under this Act or under any other law for the time being in force, direct that copies of the publication made in disobedience of such order be seized, and that any printing press or other instrument or apparatus used in the publication be closed down for the period such order is in operation.

Penalty for contravention of orders under section 5.

7. Whoever contravenes, disobeys or neglects to comply with any order made under section 5 shall, on conviction, be punished with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

CHAPTER III

PREVENTION OF PRINTING AND PUBLICATION OF OBJECTIONABLE MATTER

Power to demand security from presses in certain cases.

8. Whenever it appears to the competent authority that any press has been used for the purpose of printing or publishing any newspaper, newssheet, book or other document containing objectionable matter, and that there are sufficient grounds for demanding security from the keeper of the press under this section, the competent authority shall, by order in writing, direct the keeper of the press to deposit as security, within twenty-one days from the date of the order, such amount as the competent authority may think fit to require:

Provided that if, having regard to all the circumstances of the case,

the competent authority is satisfied that the requirements of the case will be met by a warning, the competent authority may, instead of demanding security, record, by order in writing, such warning.

Power to forfeit security or demand further security from presses.

9. Whenever it appears to the competent authority that any press in respect of which any security has been ordered to be deposited under section 8 or under this section is thereafter used for the purpose of printing or publishing any newspaper, news-sheet, book or other document containing objectionable matter, the competent authority shall, by order in writing, declare such security as has been deposited, or any portion thereof, to be forfeited to the Central Government or direct the keeper of the press to deposit, within twenty-one days from the date of the order, such further security as the competent authority may deem fit to require and may also, in either case, declare all copies of the newspaper, news-sheet, book or other document containing such objectionable matter, wherever found in India, to be forfeited to the Central Government.

Consequences of failure to deposit security as required under section 8 or section 9.

10. (*1*) Where the keeper of the press is required under section 8 or section 9 to deposit any amount as security and the deposit is not made within the time allowed—

(*a*) the declaration made by the keeper of the press under the Press Registration Act shall be deemed to be annulled; and

(*b*) notwithstanding anything contained in the Press Registration Act, neither the said keeper of the press nor any other person shall make or be allowed to make a fresh declaration before a Magistrate under that Act in respect of the press, unless the amount required to be deposited as security by the keeper of the press under section 8 or section 9 is deposited by the keeper of the press or such other person; and

(*c*) the press shall not be used for printing or publishing of any newspaper, news-sheet, book or other document until the deposit has been made.

(*2*) If any press is used in contravention of clause (*c*) of sub-section (*1*), any Judicial Magistrate may on a complaint made to him in this behalf by the competent authority direct the keeper of the press to show cause why it should not be forfeited and after hearing him and on being satisfied that there are sufficient grounds for passing the order, declare the press or any part thereof to be forfeited to the Central Government :

Provided that the press or any part thereof so forfeited shall not be disposed of within a period of three months from the date of the order of forfeiture, and if the keeper of the press makes the required deposit within the aforesaid period, the press or the part thereof shall be returned to the keeper of the press.

Power to demand security from publishers of newspapers and news-sheets in certain cases.

11. Whenever it appears to the competent authority that a newspaper or news-sheet contains any objectionable matter, and that there are sufficient grounds for demanding security in respect of the newspaper or news-sheet under this section, the competent authority shall, by order in writing, direct the publisher of the newspaper or news-sheet to deposit, within twenty-one days from the date of the order, as security in respect of the newspaper or news-sheet, such amount as the competent authority may think fit to require :

Provided that if, having regard to all the circumstances of the case, the competent authority is satisfied that the requirements of the case will be met by a warning, the competent authority may, instead of demanding security, record, by order in writing, such warning.

Power to forfeit security or demand further security from publishers of newspapers and news-sheets.

12. Whenever it appears to the competent authority that any newspaper or news-sheet in respect of which any security has been ordered to be deposited by the publisher under section 11 or under this section thereafter publishes any objectionable matter, the competent authority shall, by order in writing, declare such security as has been deposited, or any portion thereof, to be forfeited to the Central Government or direct the publisher of the newspaper or news-sheet to deposit, within twenty-one days from the date of the order, such further security as the competent authority may deem fit to require and may also, in either case, declare all copies of the newspaper or news-sheet containing such objectionable matter, wherever found in India, to be forfeited to the Central Government.

Consequences of failure by publisher to deposit security as required under section 11 or section 12.

13. (*1*) Where the publisher of a newspaper is required under section 11 or section 12 to deposit any amount as security in respect of any newspaper and the deposit is not made within the time allowed,—

(*a*) the declaration made by the publisher of the newspaper under section 5 of the Press Registration Act shall be deemed to be annulled; and

(*b*) notwithstanding anything contained in the Press Registration Act, neither the said publisher nor any other person shall make, or be allowed to make, a fresh declaration before a Magistrate under section 5 of that Act as publisher of that newspaper or any other newspaper which is the same in substance as that newspaper, unless the amount required to be deposited by the publisher of the newspaper under section 11 or section 12 is deposited by the said publisher or such other person.

(*2*) Where a deposit is required from the publisher of a newspaper or news-sheet under section 11 or section 12, no press shall, after the expiry of the time allowed to make the deposit, be used for the printing of such newspaper or news-sheet, until the deposit has been made.

(*3*) The keeper of any press who knowingly contravenes the provisions of sub-section (*2*) shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both, and where such keeper is convicted for a second or subsequent contravention of that sub-section in respect of the same newspaper or news-sheet, the court may also direct that the press or any part thereof shall be forfeited to the Central Government :

Provided that the press or part thereof so forfeited shall not be disposed of within a period of three months from the date of the order of forfeiture and, if the keeper of the press makes the required deposit within the aforesaid period, the press or the part thereof, as the case may be, shall be returned to the keeper of the press.

Power to demand security from editors of newspapers and newssheets in certain cases.

14. Whenever it appears to the competent authority that a newspaper or news-sheet contains any objectionable matter and that there are sufficient grounds for demanding security from the editor of the newspaper or news-sheet under this section, the competent authority shall, by order in writing, direct the editor of the newspaper or news-sheet to deposit, within twenty-one days from the date of the order, such amount as the competent authority may think fit to require:

Provided that if, having regard to all the circumstances of the case, the competent authority is satisfied that the requirements of the case will be met by a warning to the editor, the competent authority may, instead of demanding security, record, by order in writing, such warning.

Power to forfeit security or demand further security from editors of newspapers and newssheets.

15. Whenever it appears to the competent authority—

(*a*) that any newspaper or news-sheet contains any objectionable matter, and

(*b*) that the editor of such newspaper or news-sheet has been ordered to deposit security (whether as editor of the same newspaper or news-sheet or of any other newspaper or news-sheet) under section 14 or this section,

the competent authority shall, by order in writing, declare such security as has been deposited by such editor or any portion thereof to be forfeited to the Central Government or direct such editor to deposit, within twenty-one days from the date of the order, such further security as the competent authority may deem fit to require.

Amount of security and manner of deposit.

16. (*1*) The amount of security which may be required to be deposited under any of the foregoing sections of this Chapter shall be fixed with due regard to the circumstances of the case and shall not be excessive.

(*2*) The amount of security directed to be deposited under any of the foregoing sections of this Chapter shall be deposited in money or the equivalent thereof in Government securities in accordance with such order as the Central Government may, by notification in the Official Gazette, make, with such authority or agency as may be specified in such order.

(*3*) Every notification issued under sub-section (*2*) shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification, or both Houses agree that the notification should not be issued, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification.

Procedure, etc., to be followed by the competent authority.

17. (*1*) The competent authority shall not make any order under section 8, section 9, section 11, section 12, section 14 or section 15, unless he is satisfied, upon a complaint made to him in writing by the proper officer and inquiry made in the manner provided in this section, that it is necessary to make such order.

Explanation.—In this sub-section, "proper officer" means any officer empowered by the Central Government, by general or special order in writing, to make complaints under this section.

(2) Every complaint to the competent authority under sub-section (1) against any person (hereafter in this section referred to as the respondent) shall state or describe the objectionable matter in respect of which the complaint is made and, where it is desired that security should be demanded from the respondent, shall specify the amount of security which, in the opinion of the officer making the complaint, should be so demanded.

(3) On receipt of a complaint under sub-section (1), the competent authority may, after making such preliminary inquiry, if any, as he may deem necessary, issue notice thereof to the respondent.

(4) When the respondent appears before the competent authority in compliance with a notice under sub-section (3), the competent authority shall settle the points for determination and proceed to inquire into the complaint and, after taking such evidence as may be produced and after hearing the parties, make such order as he may deem fit.

(5) The competent authority shall inquire into the complaint, as nearly as practicable, in the manner prescribed for conducting trials in summons-cases by Magistrates under the Code.

(6) If, on the day appointed for the appearance of the respondent or any day subsequent thereto to which the inquiry may be adjourned, the respondent does not appear, the competent authority may proceed to hear the complaint and take all such evidence, if any, as may be produced in support of the complaint and make such orders under this Act as he may deem fit:

Provided that if, on an application made by the respondent within fifteen days of the date of the *ex parte* order, the competent authority is satisfied that there are sufficient grounds, he may set aside the order and make a fresh inquiry into the complaint.

(7) In any inquiry before the competent authority with reference to any newspaper or news-sheet, any previous or subsequent issue of such newspaper or news-sheet may be given in evidence in aid of the proof of the nature and effect of the words, signs or visible representation in respect of which the complaint is made.

(8) For the purpose of hearing and disposing of complaints under this section, the competent authority shall have all the powers of a Judicial Magistrate of the first class under the Code.

Revision by and appeals to Central Government.

18. (1) When any order is made by the competent authority under this Chapter against any person, the competent authority shall forthwith report the fact to the Central Government together with the grounds on which the order has been made and such other particulars as in the opinion of the competent authority have a bearing on the matter and the Central Government may, if satisfied after making such inquiry, if any, as it may deem fit, that it is proper so to do, set aside such order or modify such order to the advantage of such person.

(2) Without prejudice to the provisions of sub-section (1), any person aggrieved by an order of the competent authority under this Chapter may, within thirty days of the making of such order, prefer an appeal to the Central Government and the Central Government may, after making such inquiry as it may deem fit and after taking into account the action, if any, taken by it under sub-section (1) in respect of such order, dispose of the appeal confirming, modifying or setting aside the order or, as the case may be, confirming such action:

Provided that before confirming any such order or modifying it to the disadvantage of the appellant, the Central Government shall give an opportunity to the appellant to represent his case.

(3) On the disposal of the appeal, the Central Government shall communicate the order made by it to the appellant and the competent authority.

(4) If within a period of sixty days from the date of receipt of an appeal under sub-section (2), the Government fails to confirm, modify or set aside the order appealed against, the order shall, unless sooner set aside under sub-section (1), be deemed to have been set aside on the date of the expiry of the said period.

Explanation.—In computing the said period of sixty days, any period during which the Central Government could not dispose of the appeal by reason of any injunction or order of any Court (including the day on which such injunction or order was issued or made and the date on which it was withdrawn) shall be excluded.

CHAPTER IV

PREVENTION OF CIRCULATION AND DISTRIBUTION OF OBJECTIONABLE MATTER

Power of Central Government to declare certain publications forfeited.

19. Where it appears to the Central Government that any issue of a newspaper or news-sheet or any book or other document, wherever made, contains any objectionable matter, that Government may, by notification in the Official Gazette, stating the grounds for the order, declare that every copy of such issue of the newspaper or news-sheet or of such book or document shall be forfeited to the Central Government.

Power to detain packages containing certain publications when imported.

52 of 1962.

20. (1) Any officer of customs under the Customs Act, 1962 or any other officer empowered by a general or special order by the Central Government in this behalf may detain any package imported into India in which he suspects there are newspapers, news-sheets, books or other documents containing objectionable matter and shall forthwith forward copies of any such newspaper, news-sheet, book or other document found therein to such officer as the Central Government may appoint in this behalf to be disposed of in such manner as the Central Government may direct.

(2) Any person aggrieved by any action taken under sub-section (1) may apply, within fourteen days from the date on which such action is taken, to the Central Government for review and the Central Government may pass such orders thereon as it thinks fit.

Prohibition of transmission by post of certain documents.

21. (1) No newspaper, news-sheet, book or other document which has been declared to be forfeited under any of the provisions of this Act and no unauthorised newspaper or unauthorised news-sheet shall be transmitted by post.

(2) Any officer in charge of a post office authorised by the Central Government in this behalf may detain in course of transmission by post any article other than a letter which he suspects to contain any document as is mentioned in sub-section (1) and shall deliver all such articles to such officer as the Central Government may appoint in this behalf.

(3) If the officer to whom any article is delivered under sub-section (2) is satisfied that the article contains any such document as is mentioned in sub-section (1), he may pass such orders as to the disposal of

the article and its contents as he deems proper, and, if he is not so satisfied, he shall return the article to the post office for transmission to the addressee.

Power to seize and destroy unauthorised newspapers and news-sheets.

22. (*1*) Any police officer or any other officer empowered in this behalf by a State Government may seize any unauthorised newspaper or unauthorised news-sheet in the State.

(*2*) Any Metropolitan Magistrate, Chief Judicial Magistrate or a Magistrate of the first class may, by warrant, authorise any police officer, not below the rank of a sub-inspector, to enter upon and search any place where any stock of unauthorised newspapers or news-sheets may be, or may be reasonably suspected to be, and such police officer may seize any documents found in such place which, in his opinion, are unauthorised newspapers or unauthorised news-sheets.

(*3*) All documents seized under sub-section (*1*) shall be produced, as soon as may be, before a Metropolitan Magistrate, a Chief Judicial Magistrate or a Magistrate of the first class and all documents seized under sub-section (*2*) shall be produced, as soon as may be, before the Court of the Magistrate who issued the warrant.

(*4*) If in the opinion of such Magistrate or Court any of such documents are unauthorised newspapers or unauthorised news-sheets, the Magistrate or Court may cause them to be destroyed, but if, in the opinion of such Magistrate or Court any of such documents are not unauthorised newspapers or unauthorised news-sheets, such Magistrate or Court shall dispose of them in the manner provided in sections 457, 458 and 459 of the Code.

Power to seize and forfeit undeclared presses producing unauthorised newspapers and unauthorised news-sheets.

23. (*1*) Where a Metropolitan Magistrate or a Chief Judicial Magistrate has reason to believe that an unauthorised newspaper or unauthorised news-sheet is being produced from an undeclared press within the local limits of his jurisdiction, he may, by warrant, authorise any police officer, not below the rank of a sub-inspector, to enter upon and search any place where such undeclared press may be, or may be reasonably suspected to be, and if, in the opinion of the police officer, any press found in such place is an undeclared press and is used to produce an unauthorised newspaper or unauthorised news-sheet, he may seize such press and any documents found in the place which, in his opinion, are unauthorised newspapers or unauthorised news-sheets.

(*2*) The police officer shall forthwith make a report of the search to the Court which issued the warrant and shall produce before such Court, as soon as may be, all property seized:

Provided that where any press which has been seized cannot be readily removed, the police officer may produce before the Court only such parts thereof as he may think fit.

(*3*) If such Court, after such inquiry as it may think requisite, is of opinion that a press seized under this section is an unauthorised press

which is used to produce an unauthorised newspaper or news-sheet, it may, by order in writing, declare the press or any part thereof to be forfeited to the Central Government, but if after such inquiry the Court is not of such opinion, it shall dispose of the press in the manner provided in sections 457, 458 and 459 of the Code.

(4) The Court shall deal with the documents produced before it under this section in the manner provided in sub section (4) of section 22.

CHAPTER V

APPEALS AND APPLICATIONS TO HIGH COURT

Appeals.

24. (1) Any person aggrieved by an order passed under section 18 may prefer an appeal to the High Court within the jurisdiction of which such person ordinarily resides or carries on business or personally works for gain.

(2) No appeal shall be entertained under sub-section (1) unless it is made within sixty days of the date of the order appealed against.

(3) Upon any appeal under this section, the High Court may pass such order as it deems fit confirming, varying or setting aside the order appealed from, and may pass such consequential or incidental orders as may be necessary.

Application to High Court against orders of forfeiture.

25. (1) Any person aggrieved by an order of forfeiture passed by a Magistrate under sub-section (2) of section 10 or sub-section (3) of section 13 may, within sixty days of the date of such order, make an application to the High Court to which such Magistrate is subordinate.

(2) Any person aggrieved by an order of forfeiture passed under section 19 or by an order under sub-section (2) of section 20 may, within sixty days of the date of such order, make an application to the High Court within the jurisdiction of which such person ordinarily resides or carries on business or personally works for gain.

(3) The High Court to which any application is made under this section may pass such order as it deems fit confirming, varying or setting aside the order in respect of which such application is made and may pass such consequential or incidental orders as may be necessary.

Appeals and applications to be heard by a Bench of three Judges.

26. Every appeal and every application to a High Court under this Chapter shall, where the High Court consists of three or more Judges, be heard and determined by a Special Bench of the High Court composed of three Judges and where the High Court consists of less than three Judges, such Special Bench shall be composed of all the Judges of the High Court.

Procedure in High Court.

27. Every High Court may frame rules to regulate the procedure in respect of appeals and applications under this Chapter and until such rules are framed, the practice of such High Court in proceedings in respect of appeal and revision shall apply, in so far as may be practicable, to such appeals and applications.

CHAPTER VI

PENALTIES

Penalty for keeping press without making deposit.

28. Whoever is the keeper of a press which is used for the printing or publishing of any newspaper, news-sheet, book or other document without making a deposit as required under section 8 or section 9 shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both.

Penalty for publishing newspaper or news-sheet without making deposit.

29. Whoever publishes any newspaper or news-sheet without making a deposit as required under section 11 or section 12 or publishes such newspaper or news-sheet knowing that such security has not been deposited shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both.

Penalty for acting as editor without making deposit.

30. Whoever acts as an editor of a newspaper or news-sheet without making a deposit as required under section 14 or section 15 shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

Penalty for disseminating unauthorised newspapers and unauthorised news-sheets.

31. Whoever sells or distributes or keeps for sale or distribution any unauthorised newspaper or unauthorised news-sheet knowing or having reason to believe that it was an unauthorised newspaper or an unauthorised news-sheet shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

CHAPTER VII

MISCELLANEOUS

Service of notices.

32. Every notice under this Act shall be served in the manner provided for the service of summonses under the Code:

Provided that if service in such manner cannot, by the exercise of due diligence, be effected, the serving officer shall, where the notice is directed to the keeper of the press, affix a copy thereof to some conspicuous part of the place where the press is situated, as described in the keeper's declaration under section 4 of the Press Registration Act, and, where the notice is directed to the publisher or editor of a newspaper, to a conspicuous part of the premises where the publication of such newspaper is conducted, as given in the publisher's declaration under section 5 of that Act and thereupon the notice shall be deemed to have been duly served.

Issue of search-warrants in certain cases.

33. (*1*) Where any press or any copies of newspaper, news-sheet, book or other document are declared forfeited to the Central Government under this Act, the Central Government may require a Magistrate to issue a warrant empowering any police officer, not below the rank of a sub-inspector, to seize and detain any property ordered to be forfeited and to enter upon and search for such property in any premises—

(*a*) where any such property may be or may be reasonably suspected to be, or

(*b*) where any copy of such newspaper, news-sheet, book or other document is kept for sale, distribution, publication or public exhibition or is reasonably suspected to be so kept.

(*2*) Without prejudice to the provisions contained in sub-section (*1*), where any newspaper, news-sheet or other document is declared forfeited to the Central Government, it shall be lawful for any police officer to seize the same, wherever found.

Conduct of searches.

34. Every warrant issued under this Act shall, so far as it relates to a search, be executed in the manner provided for the execution of search-warrants under the Code.

Return of security in certain cases.

35. (*1*) Where any keeper of a press or publisher or editor of a newspaper or news-sheet has deposited any amount as security or further security as required under section 8 or section 9 or section 11 or section 12 or section 14 or section 15 and no further action has been taken in respect of the press or the publisher or the editor under this Act for a period of two years from the date of such deposit, the person who made the deposit or any person claiming under him may apply to the Central Government for the return of the security in deposit.

(*2*) The Central Government shall, after making such inquiry as it may deem fit and after being satisfied about the claim of the applicant, direct the security to be returned to the applicant.

Application of provisions of Act 36 of 1963.

36. For the purpose of determining any period of limitation prescribed by this Act for any application or appeal, the provisions of sections 4 to 24 of the Limitation Act, 1963 shall apply as they apply for determining the period of limitation prescribed for any application or appeal by the Schedule to that Act.

Bar of jurisdiction and protection of action taken in good faith.

37. Every declaration of forfeiture purporting to be made under this Act shall, as against all persons be conclusive evidence that the forfeiture therein referred to has taken place, and except as provided by this Act—

(*a*) no proceeding taken or purporting to be taken under this Act shall be called in question by or before any court; and

(*b*) no civil or criminal proceedings shall be instituted against any person for anything which is in good faith done or intended to be done under this Act.

Bar of double penalty.

38. Notwithstanding anything contained in this Act, no keeper of a press or publisher of any newspaper or news-sheet or editor of any newspaper or news-sheet shall be prosecuted under section 28, section 29 or section 30, as the case may be, if for the same act or omission such person has been proceeded against under section 8 or section 9 or section 11 or section 12 or section 14 or section 15, as the case may be, nor shall any such person be proceeded against under section 8 or section 9 or section 11 or section 12 or section 14 or section 15, as the case may be, if for the same act or omission such person has been prosecuted under section 28, section 29 or section 30, as the case may be.

Cognizability of offences under this Act.

39. Notwithstanding anything contained in the Code, any offence punishable under this Act and any abetment of such offence shall be cognizable and bailable.

Repeal of sections 6, 7 and 8 of Act 35 of 1969.

40. Sections 6, 7 and 8 of the Criminal and Election Laws Amendment Act, 1969 are hereby repealed. 35 of 1969.

Repeal of Ordinance 28 of 1975 and saving.

41. (*1*) The Prevention of Publication of Objectionable Matter Ordinance, 1975 is hereby repealed.

(*2*) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

A publication in print has a more lasting and widespread effect than other forms of communication. The Press (Objectionable Matter) Act, 1951, was enacted to penalise the abuse of the freedom of the press by publication of matter involving encouragement of violence or sabotage or incitement to certain other very grave offences. The Press Commission which submitted its Report in 1954 accepted the possibility of existence of irresponsible elements who needed to be curbed through special legal measures. The Commission recommended the setting up of a Press Council which would, *inter alia*, safeguard the liberty of the press and evolve and maintain standards of journalistic ethics. The Commission hoped that as the Press Council "grows in strength and prestige the necessity of having resort to such measures as the Press (Objectionable Matter) Act will gradually disappear." In the hope that the press would evolve its own internal control, Government allowed the Press (Objectionable Matter) Act, 1951, to expire on the 1st February, 1956. Later, in accordance with the recommendations of the Press Commission, the Press Council Act, 1965, was enacted. The experience of the system of Press Council has not, however, been satisfactory. It did not serve to deter those elements which were in a position to use the printed medium in an undesirable way, for spreading hatred, for character assassination and undermining the people's morale and taste. In view of the need for urgent action in the matter, the President promulgated on the 8th December, 1975, the Prevention of Publication of Objectionable Matter Ordinance, 1975.

2. The Ordinance provided for the prohibition of the printing or publication of any specified matter for a temporary period not exceeding two months where such prohibition is necessary for preventing or combating any activity prejudicial to the interests of sovereignty and integrity of India, security of the State, friendly relations with foreign States, public order, decency or morality or any activity involving or likely to involve, or culminate in, incitement to offences. The Ordinance also provided for demanding security from keepers of presses and publishers and editors of newspapers found guilty of being concerned in the publication of objectionable matter as defined in the Ordinance. Provisions were also made in the Ordinance for preventing the circulation and distribution of objectionable matter. The main purpose of the Ordinance was to prevent the use of the Press for encouragement of violence, sedition and other offences and for the publication of obscene or scurrilous matter and the definition of "objectionable matter" has been strictly confined to this purpose.

3. The Bill seeks to replace the Ordinance. The Notes on Clauses explain the provisions of the Bill.

NEW DELHI;
The 16th January, 1976.

VIDYA CHARAN SHUKLA

Notes on Clauses

Clause 2.—Sub-clause (1) defines certain expressions used in the Bill. The definitions of "book", "document", "newspaper", "news-sheet" "press", "Press Registration Act", "unauthorised newspaper", "unauthorised news-sheet" and "undeclared press" are on the same lines as the definitions of those expressions in section 2 of the Press (Objectionable Matter) Act, 1951.

Sub-clauses (2), (3) and (4) are self-explanatory.

Clause 3.—This clause defines the expression "objectionable matter". Subject to certain modifications aimed at making the law more effective, the definition of the expression is modelled on the definition of the expression in section 3 of the Press (Objectionable Matter) Act, 1951. In particular, seditious publications, publications involving incitement to offences and publications which are defamatory of high dignitaries have been covered. As in the Press (Objectionable Matter) Act, 1951, it has been made clear that comments expressing disapprobation or criticism of any law or of any policy or administrative action of the Central Government with a view to obtain its alteration or redressal by lawful means shall not be deemed to be objectionable matter.

Clause 4.—This clause provides for the appointment of competent authorities for the purposes of the legislation. The power to appoint competent authorities is vested in the Central Government. Officers of the Central Government not below the rank of a Deputy Secretary to that Government or officers of State Governments or Union territory Administrations not below the rank of District Magistrates may be appointed as competent authorities.

Clause 5.—This clause seeks to empower the Central Government and the competent authorities to prohibit the printing or publication in any document or any class of documents of any matter relating to a particular subject or a class of subjects for a specified period (not exceeding two months) or in any particular issue or issues of a newspaper or periodical of any matter where such prohibition is considered necessary for the purpose of preventing or combating any activity prejudicial to the interests of sovereignty and integrity of India, security of the State, friendly relations with foreign States, public order, decency or morality or any activity involving or likely to involve or culminate in incitement to offences. The provision is modelled on section 6 of the Criminal and Election Laws Amendment Act, 1969. Where an order is made by competent authority he has to report the fact to the Central Government and the Central Government may, on its own motion, set aside such order or modify it to the advantage of the person against whom it is made. In addition, the person aggrieved by such order may make a representation to the Central Government. Special provisions have been made to ensure that such representations are disposed of expeditiously. If a representa-

tion against an order is not disposed of within the period specified in the clause, the order will automatically be deemed to have been set aside on the expiry of that period.

Clause 6.—This clause provides for forfeiture of publications made in contravention of an order under clause 5.

Clause 7.—This clause provides for penalty for contravention of an order under clause 5.

Clauses 8 and 9.—These clauses provide for the action which may be taken against the keeper of a press when the press has been found to have been used for the purpose of printing or publishing any newspaper, news-sheet, book or other document containing objectionable matter. On the first occasion, the competent authority can by order in writing, require the keeper of the press to deposit as security such amount as that authority may deem fit. Where the requirements of the case will be met by a warning, the competent authority may, instead of demanding security, record such warning (clause 8).

Where, after the keeper of a press has been ordered to furnish a security, the press is again found to have been used for printing or publishing any newspaper, news-sheet or other document containing objectionable matter, the competent authority can be order in writing, declare the whole or any portion of the security deposited by the keeper of the press to be forfeited to the Central Government or direct the keeper to deposit further security. The competent authority may also declare all copies of the newspaper, news-sheet, book or other document containing the objectionable matter to be forfeited to the Central Government (clause 9).

Clause 10.—This clause provides for the consequences of failure on the part of a keeper of a press to deposit security or further security as required under the provisions of clauses 8 and 9.

Clauses 11 and 12.—These clauses provide for the action which may be taken against the publisher of a newspaper or news-sheet found to be containing any objectionable matter. On the first occasion, the competent authority can, by order in writing, require the publisher to deposit as security such amount as that authority may deem fit. Where the requirements of the case will be met by a warning the competent authority may, instead of demanding security, record such a warning (clause 11).

If any objectionable matter is found to have been published in any newspaper or news-sheet after the publisher has been ordered to make a deposit, the competent authority may, by order in writing, declare the whole or any portion of the security which has already been deposited to be forfeited to the Central Government or direct the publisher to deposit further security. The competent authority may also declare all copies of the newspaper or news-sheet containing objectionable matter to be forfeited to the Central Government (clause 12).

Clause 13.—This clause provides for consequences of failure by a publisher of a newspaper or news-sheet to deposit security or further security as required under the provisions of clauses 11 and 12.

Clauses 14 *and* 15.—These clauses provide for the action which may be taken against the editor of a newspaper or news-sheet found to be containing objectionable matter. On the first occasion, the competent authority can, by order in writing, require the editor to deposit as security such amount as that authority may deem fit. Where the requirements of the case will be met by a warning, the competent authority may instead of demanding security record such warning (clause 14).

If, after an editor has been required to furnish security, any objectionable matter is found to have been published in any newspaper or news-sheet of which he is the editor, the competent authority can by order in writing declare the whole or any portion of the security deposited by the editor to be forfeited to the Central Government or direct the editor to deposit further security (clause 15).

Clause 16.—This clause provides that the amount of security which a keeper of the press or an editor of a newspaper or news-sheet may be required to deposit shall not be excessive and that it shall be fixed having due regard to all the circumstances. The clause also provides that any security directed to be deposited may be deposited in money or the equivalent thereof in Government securities.

Clause 17.—This clause provides for the procedure which has to be followed by a competent authority in making any order under clause 8, 9, 11, 12, 14 or 15, as the case may be, against a keeper of a press or publisher or editor of a newspaper or news-sheet. The competent authority may make an order only upon a complaint made to him in writing by the proper officer and after inquiry in accordance with the provisions of the clause. The clause provides, *inter alia*, that the inquiry shall be made as far as practicable in the manner prescribed for conducting trials in summons cases by Magistrates under the Code of Criminal Procedure, 1973.

Clause 18.—This clause provides for revision by Central Government of orders of competent authorities under clauses 8, 9, 11, 12, 14 and 15 and also for appeals against such orders to that Government. The Central Government can exercise the powers of revision only for setting aside any such order or for modifying it to the advantage of the person affected.

Clauses 19 to 23.—These clauses are intended to prevent the circulation and distribution of objectionable matter. Clause 19 seeks to empower the Central Government to order the forfeiture of any issue of a newspaper or news-sheet, book or other document containing objectionable matter. Clause 20 seeks to empower officers of Customs under the Customs Act, 1962 and other officers empowered by the Central Government to detain packages which are imported into India and which are suspected to contain newspapers, news-sheets or other documents containing objectionable matter. Clause 21 provides for prohibition of transmission by post of documents containing objectionable matter and unauthorised newspapers and unauthorised news-sheets. Clause 22 provides for seizure and destruction of unauthorised newspapers and news-sheets. Clause 23 provides for seizure and forfeiture of undeclared presses producing unauthorised newspapers and unauthorised news-sheets

Clause 24.—This clause provides for appeals to High Court against the orders of the Central Government under the clause 18.

Clause 25.—This clause provides for applications to the High Court against orders made under clause 10(2), clause 13(3), clause 19 and clause 20(2).

Clause 26.—This clause provides that appeals and applications under clauses 24 and 25 shall be heard by a Special Bench of the High Court composed of three Judges or where the High Court consists of less than three Judges, of all the Judges of the High Court.

Clause 27.— This clause empowers the High Courts to frame rules to regulate the procedure in respect of appeals and applications under the provisions of clauses 24 and 25.

Clauses 28, 29 and 30.—These clauses provide for penalties for keeping a press without making a deposit, for publishing a newspaper or news-sheet without making a deposit or for acting as editor without making a deposit.

Clause 31.—This clause provides for penalty for disseminating unauthorised newspapers and unauthorised news-sheets.

Clause 32.—This clause provides for the manner of service of notices under the legislation.

Clauses 33 and 34.—These are self-explanatory.

Clause 35.—This clause provides for the circumstances in which deposits made under the Act may be returned.

Clause 36.—This clause seeks to make the provisions of the Limitation Act, 1963 relating to computation of periods of limitation applicable for purposes of computing the periods of limitation for applications and appeals under the legislation.

Clauses 37 to 39.—These clauses are self-explanatory.

Clause 40—In view of the provisions made in clauses 5 to 7 of the Bill, this clause provides for the repeal of sections 6, 7 and 8 of the Criminal and Election Laws Amendment Act, 1969.

Clause 41.—This clause provides for the repeal of the Prevention of Publication of Objectionable Matter Ordinance, 1975.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (2) of clause 16 of the Bill empowers the Central Government to specify, by notification in the Official Gazette, the manner in which and the authority or agency with whom the amounts of security referred to in that sub-clause may be deposited. The matters which may be specified in such notification are matters of detail. Further, sub-clause (3) of the clause provides for the laying of such notifications before each House of Parliament. Hence, the delegation of legislative power is of a normal character.

Memorandum explaining the modifications contained in the Bill to replace the Prevention of Publication of Objectionable Matter Ordinance, 1975

Apart from changes of a formal, drafting or consequential nature, the Bill contains the following modifications :—

(1) Section 16 of the Ordinance, which, *inter alia,* empowers the Central Government to specify, by notification, the manner in which and the authorities or agencies with whom deposits may be made, has been modified to provide for the laying of such notifications before each House of Parliament [*vide* clause 16(3) of the Bill].

(2) The Explanation to section 17(1) of the Ordinance relating to appointment of proper officers has been modified so that the Central Government alone has the power to appoint such officers [*vide* Explanation to clause 17(1) of the Bill].

BILL NO. 27 OF 1976

A Bill to provide for the establishment, in the interest of the general public, of a fund to ensure that the price of levy sugar may be uniform throughout India and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Levy Sugar Price Equalisation Fund Act, 1976.

(*2*) It extends to the whole of India except the State of Jammu and Kashmir.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "controlled price" means the price of the relevant grade of levy sugar, determined from time to time under sub-section (*3C*) of section 3 of the Essential Commodities Act, 1955, or under the Defence and Internal Security of India Rules, 1971, in relation to any year of production; 10 of 1955.

(*b*) "excess realisation", in relation to each grade of levy sugar,—

(*i*) means the price realised by any producer, on the sale of levy sugar of such grade, in excess of—

(*a*) the controlled price, or

(*b*) where any fair price has been fixed by a court for levy sugar of such grade, such fair price, and

(*ii*) includes any realisation representing the difference between the controlled price and the price allowed by the court by an interim order, if such interim order is set aside, whether by the court which made the order or in appeal or revision;

(*c*) "fair price", in relation to levy sugar, means the price fixed by the court in excess of the controlled price, and, where an interim price, fixed by the court, is superseded by a price which is finally fixed by the court, the price so finally fixed;

(*d*) "Fund" means the Levy Sugar Price Equalisation Fund, established under section 3;

(*e*) "levy sugar" has the meaning assigned to it in the Levy Sugar Supply (Control) Order, 1972, published with the Order of the Government of India, in the late Ministry of Agriculture (Department of Food), No. GSR 310(E)/Ess.Com./Sugar, dated the 15th June, 1972;

(*f*) "prescribed" means prescribed by rules made under this Act;

(*g*) "producer" means a person carrying on the business of manufacturing sugar by the vacuum pan process.

Levy Sugar Price Equalisation Fund.

3. (*1*) There shall be established a Fund, to be called the Levy Sugar Price Equalisation Fund.

(*2*) Save as otherwise provided in sub-section (*4*), there shall be credited to the Fund, in such manner as may be prescribed,—

(*a*) the amounts representing all excess realisations made by the producers, irrespective of whether such excess realisations were made before or after the commencement of this Act;

(*b*) the amounts representing any loans which may be advanced, or grants which may be made, by the Central Government for carrying out the objects of the Fund.

(*3*) Save as otherwise provided in sub-section (*4*), every producer shall,—

(*a*) in the case of an excess realisation made before the commencement of this Act, within thirty days from such commencement,

(*b*) in the case of an excess realisation made after such commencement, within thirty days from the date on which such excess realisation was made,

credit to the Fund, the amount representing such excess realisations, together with interest due thereon at the rate of twelve and a half per cent. per annum, from the date on which such amount was realised by him.

(4) Where, by virtue of any interim order made by any court, whether before or after the commencement of this Act,—

(a) amounts representing the difference between the controlled price and price allowed by any court by an order made in this behalf, have been, or are required to be,—

(*i*) kept with the producer himself, or

(*ii*) kept deposited with, or in the custody of, any court, or

(*iii*) kept deposited with, or in the custody of, any Government, bank, authority or other person; or

(*b*) any amount in excess of the controlled price has been collected and kept by the producer under the cover of any guarantee given in pursuance of such order,

it shall not be necessary to credit such amounts to the Fund so long as the court which passed the interim order does not so direct.

(5) Where, in pursuance of an interim order referred to in sub-section (4), any amount representing the difference between the controlled price and the interim price allowed by the court is,—

(*a*) held by any producer either with himself or with any other person or with any court, Government, bank or other authority, or

(*b*) collected and kept by the producer under the cover of any guarantee,

such producer shall, on the final disposal of the proceedings of the court aforesaid, or in any court of appeal or revision, credit such amount, to the extent it represents any excess realisation, to the Fund.

(6) For the removal of doubts, it is hereby declared that the obligation to credit amounts representing excess realisations to the Fund shall be in addition to any penalty which may be imposed for the contravention of any provision of this Act.

(7) The Fund shall be administered, subject to the provisions of section 8, by the Central Government.

Determination of questions as to making of excess realisations.

4. If any question arises as to whether any producer has realised, on the sale of levy sugar, any amount in excess of the controlled price, or, as the case may be, the fair price, it shall be decided by the Central Government after giving an opportunity to such producer of being heard and after making such inquiry as that Government may deem fit.

Discharge of persons of liability in respect of amounts credited to the Fund.

5. Where any amount is credited to the Fund under section 3, the producer by whom such amount is credited shall, upon such crediting, be discharged from the liability to make repayment of such amounts to the persons entitled thereto and such discharge from liability to make repayment shall be without any prejudice to any penalty which may be imposed on such producer for each excess realisation made by him.

Right of buyer to claim refund

6. (1) Where any amount is credited to the Fund, a refund shall be made from the Fund to the buyer of levy sugar from whom any excess realisation was made by the producer or dealer:

Provided that no buyer shall be entitled to claim a refund under this sub-section if he,—

(a) being a wholesale dealer, had passed on the incidence of such excess over the controlled or fair price of levy sugar to the retail dealer by whom the price of such sugar was paid, or

(b) being a retail dealer, had passed on the incidence of such excess over the controlled or fair price of levy sugar to the consumer by whom the price of such sugar was paid.

(2) Every application for refund under sub-section (1) shall be made to the Central Government within six months from the date on which the excess realisation, in relation to which such refund is claimed, is credited to the Fund, and every such application shall be in such form as may be prescribed and shall be accompanied by such documentary or other evidence as the applicant may furnish to establish that the excess realisation, in relation to which such refund is claimed, was made from him.

(3) The Central Government shall, if satisfied, on a scrutiny of the claim made under sub-section (1), that an excess realisation was made from the claimant, direct that refund be made from the Fund to the claimant to the extent of the excess realisation made from him:

Provided that if the amount standing to the credit of the Fund is not sufficient to enable the Central Government to make the refund, such refund shall be made from the Central revenues.

Excess realisation not to be paid to any producer of sugar.

7. Notwithstanding anything to the contrary contained in any other law for the time being in force or in any contract, no amount, representing excess realisations made by a producer or excess realisations made by a producer under the cover of any guarantee given by any person shall be paid to any producer.

Fund to vest in the Central Government.

8. (1) Any money paid into the Fund, which remains unclaimed after the expiry of the period of six months from the date on which it is credited to the Fund, shall vest in the Central Government and such amount shall be utilised by that Government in such manner as may be prescribed having regard to the interests of the consumers of levy sugar as a class and the need to ensure that the retail price of levy sugar throughout India is uniform:

Provided that, notwithstanding the vesting of such money in the Central Government, a claim for the refund of money standing to the credit of the Fund may be made [in the manner specified in sub-section (2) of section 6] at any time by a buyer who is lawfully entitled to make such claim, and every such claim, if admitted, shall be dealt with as if the money relatable to such claim had not vested in the Central Government.

(2) The Central Government shall not grant any loan or give any financial assistance from the Fund except for the purposes of this Act.

(3) The Central Government shall maintain, or if it thinks fit specify the authority which shall maintain, proper and separate account and other relevant records in relation to the Fund in such form as may be

prescribed in consultation with the Comptroller and Auditor General of India.

Power to require producers to maintain accounts, etc.

9. The Central Government may, if it is satisfied that it is expedient or necessary so to do for carrying out the provisions of this Act, by an order, direct any producer to maintain such books of account and other records in relation to levy sugar as it may think fit and to produce such books of account and other records for inspection and may also direct such producer to furnish such information relating to levy sugar as may be specified in the order.

Power of entry, search and seizure.

10. (*1*) Any authority specified by the Central Government in this behalf may, if it is satisfied that any provision of this Act has been, or is being, or is about to be, contravened, authorise any person to enter and search any premises where any accounts, books, registers and other documents relating to levy sugar and belonging to, or under the control of, a producer or his agent, are maintained or kept for safe custody.

(*2*) The person so authorised may seize any such accounts, books, registers or other documents if he has any reason to believe that a contravention of this Act has been, or is being, or is about to be, committed:

Provided that the accounts, books, registers or other documents seized under this section shall not be retained in custody of the Central Government for a period exceeding ninety days:

Provided further that where such accounts, books, registers and other documents are required for the purposes of any prosecution, they may be retained in the custody of the Central Government for a further period, not exceeding ninety days, for the purposes of such prosecution.

(*3*) The provisions of the Code of Criminal Procedure, 1973, relating to searches and seizures, shall, so far as may be, apply to searches and seizures made under this Act. 2 of 1974.

Power of Central Government to recover excess realisations as arrears of land revenue.

11. If any producer makes any default in crediting to the Fund any excess realisations made by him or any part thereof, such excess realisations or such part, as the case may be, shall be recoverable by the Central Government from such producer as an arrear of land revenue.

Dissolution of the Fund.

12. The Central Government may, by notification in the Official Gazette, declare that with effect from such date as may be specified in the notification, the Fund shall cease to exist and thereupon all the amounts lying to the credit of the Fund shall be credited to the Central revenues and refund, if any, made by the Central Government, after such cesser, to any buyer of levy sugar shall be treated as an order for the refund of revenue.

Penalties.

13. (*1*) If any producer—

(*a*) makes any default in crediting to the Fund any excess realisations made by him or any part thereof, or

(*b*) having been required by the Central Government so to do, omits or fails to—

(*i*) maintain any books, accounts or other records in relation to levy sugar, or

(*ii*) produce any books, accounts or other records for inspection, or

(*iii*) furnish any information or furnishes any information which is incorrect or false in material particulars,

he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to five thousand rupees, or with both.

(*2*) No court shall take cognizance of any offence punishable under this Act except on the complaint in writing made by the Central Government or by any officer or authority authorized, in writing, by that Government in this behalf.

Removal of difficulties.

14. If any difficulty arises in giving effect to any provision of this Act, the Central Government may make such order, not inconsistent with the provisions of this Act, as may appear to it to be necessary to remove the difficulty.

Protection of action taken in good faith.

15. No suit, prosecution or other legal proceeding shall lie against the Central Government or any person authorised by the Central Government for anything which is in good faith done or intended to be done under this Act or any rule or order made thereunder.

Power to make rules.

16. (*1*) The Central Government may make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the manner in which amounts shall be credited to the Fund under section 3;

(*b*) the form in which an application for refund, referred to in section 6, shall be made;

(*c*) the manner in which amounts standing to the credit of the Fund shall be utilised, as required by section 8;

(*d*) the form in which the account and the relevant records, referred to in sub-section (*3*) of section 8, shall be maintained;

(*e*) any other matter in relation to which such rules are required to be, or may be, made.

(*3*) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Since the beginning of 1972-73 sugar season, the Government of India have, as a matter of policy, been distributing levy sugar through fair price shops to the consumers at a uniform price throughout the country, by pooling the ex-factory prices of levy sugar. The ex-factory prices are fixed by the Government under section 3(3C) of the Essential Commodities Act, 1955. These prices have been challenged by a number of producers from time to time and pending disposal of the writ petitions, the courts had made interim orders permitting the producers to charge higher prices subject, in most of the cases, to the excess collection being kept in deposit or covered by suitable bank guarantees to the satisfaction of the Registrar of the court.

2. The validity of some of the Government orders fixing the controlled price of levy sugar has been upheld in some cases, while a large number of cases are still pending. The Bill provides that the monies representing the difference between the controlled prices and the higher prices charged by the producers should, in the first instance, be refunded to the consumers who had paid such higher prices. But where such consumers do not come forward to claim the refund within the time specified in the Bill, the monies representing the difference between the controlled prices and the higher prices charged by the producers would, by virtue of the principles of *bona vacantia* (that is to say, the principle under which property vests in the State where there is no apparent hightful claimant to the property), vest in the Central Government. The monies vested in the Central Government will be utilised for ensuring that the price of levy sugar throughout India is uniform so that the benefit of the money accruing to the Central Government may be derived by all the consumers.

NEW DELHI; JAGJIVAN RAM.

The 12th January, 1976.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION OF INDIA

[Copy of letter No. 1-41/72-SPY, dated the 14th January, 1976 from Shri Jagjivan Ram, Minister of Agriculture and Irrigation to the Secretary-General, Lok Sabha.]

The President having been informed of the subject-matter of the proposed Bill recommends the introduction and consideration of the Bill under article 117(1) and article 117(3) respectively of the Constitution.

FINANCIAL MEMORANDUM

The Bill, if enacted, would necessitate the employment of some staff to carry out the provisions of the Bill. The expenditure on the staff in the first year is not likely to exceed rupees 5 lakhs. It may be possible to effect a reasonable reduction in the expenditure on staff in the course of time, depending on the progress of the recovery of excess realisations from the producers of sugar.

2. Under sub-clause (1) of clause 6 of the Bill, the Central Government is required to refund to any buyer of levy sugar any amount which has been realised from him in excess of the controlled price or fair price, as the case may be, and credited to the Fund under clause 3. Since the refund will be made from the Fund, to which the excess realisations are credited, no expenditure from the Consolidated Fund of India is likely to be involved.

3. Sub-clause (3) of clause 6 provides that if the amount in the Fund is not adequate for making any refund, such refund shall be made from the Central revenues. It is not possible to estimate the amount, if any, which may have to be refunded from the Central revenues; but the amount of such refund shall, in no case, exceed the amount realised by the Central Government from the producers of levy sugar and utilised for the purposes of the Bill.

4. Clause 12 empowers the Central Government to dissolve the Fund, and on such dissolution, the monies standing to the credit of the Fund shall be credited to the Central revenues and subsequently the refund, if any, shall have to be made from the Central revenues.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 16 of the Bill empowers the Central Government to make rules for carrying out the provisions of the Bill. Such rules may be made with regard to the manner in which amounts are to be credited to the Fund constituted under clause 3, the form in which an application for refund may be made by a buyer from whom any excess realisation was made, the manner in which amounts standing to the credit of the Fund shall be utilised by the Central Government, the form in which accounts and other relevant records are to be maintained and any other matter in relation to which any rule is required to be, or may be, made.

The matters in relation to which such rules may be made are matters of detail and procedure and it is hardly possible to provide for them in the Bill itself. The delegation of the legislative power is, therefore, of a normal character.

BILL No. 30 OF 1976

A Bill to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Nagaland for the services of the financial year 1975-76.

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

1. This Act may be called the Nagaland Appropriation Act, 1976. **Short title.**

2. From and out of the Consolidated Fund of the State of Nagaland there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of twelve crores, fourteen lakhs and seventy-three thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1975-76, in respect of the services specified in column 2 of the Schedule. **Issue of Rs. 12, 14,73,000 from and out of the Consolidated Fund of the State of Nagaland for the financial year 1975-76.**

3. The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Nagaland by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year. **Appropriation.**

THE SCHEDULE

(*See* sections 2 and 3)

1	2		3		
No. of Vote/ Appropriation	Services and purposes		Sums not exceeding		
			Voted by Parliament	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
2	Head of State .	Revenue	..	8,87,000	8,87,000
6	Land revenue, stamps and registration . .	Revenue	25,000	..	25,000
9	Taxes on Vehicles .	Revenue	51,000	..	51,000
10	Servicing of debt . .	Revenue	..	1,95,000	1,95,000
		Capital	..	4,85,34,000	4,85,34,000
12	Civil Secretariat . .	Revenue	13,16,000	..	13,16,000
13	District administration special welfare scheme and Tribal Council .	Revenue	6,79,000	..	6,79,000
15	Special expenditure on maintenance of law and order including contribution for pensions and gratuities . .	Revenue	1,28,40,000	..	1,28,40,000
16	Village Guards . .	Revenue	2,70,000	..	2,70,000
17	Civil Police and Fire Service Unit . . .	Revenue	1,52,15,000	..	1,52,15,000
		Capital	8,00,000	..	8,00,000
20	Vigilance Commission .	Revenue	80,000	..	80,000
22	Nagaland Houses . .	Revenue	97,000	..	97,000
24	State Lotteries . .	Revenue	2,65,000	..	2,65,000
26	Education . . .	Revenue	1,00,86,000	..	1,00,86,000
28	Medical, Public Health and Family Planning .	Revenue	15,53,000	..	15,53,000
34	Social Welfare . .	Revenue	13,48,000	..	13,48,000
36	Social Security, Welfare and Community Services	Revenue	35,95,000	..	35,95,000
38	Co-operation . .	Revenue	2,37,000	..	2,37,000
		Capital	15,84,000	..	15,84,000
44	Grain Supply Scheme .	Capital	1,00,29,000	..	1,00,29,000
47	Industries . . .	Revenue	10,45,000	..	10,45,000

STATEMENT OF OBJECTS AND REASONS

This Bill is introduced in pursuance of article 204(1) of the Constitution of India read with article 205 thereof, and the Proclamation issued under article 356 of the Constitution in respect of the State of Nagaland on the 22nd March, 1975 to provide for the appropriation out of the Consolidated Fund of the State of Nagaland of the moneys required to meet the supplementary expenditure charged on the Consolidated Fund of the State of Nagaland and the grants made by the Lok Sabha for expenditure of the Government of Nagaland, for the financial year 1975-76.

SUSHILA ROHATGI,

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 207 OF THE CONSTITUTION OF INDIA

[Copy of letter No. F.5(60)-B/75, dated the 23rd January, 1976 from Shrimati Sushila Rohatgi, Deputy Minister in the Ministry of Finance to the Secretary-General, Lok Sabha.]

The President, having been informed of the subject matter of the proposed Bill to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Nagaland for the services of the year ending on the 31st day of March, 1976, recommends under clauses (1) and (3) of article 207 of the Constitution read with clause 2 of article 205 thereof and the Proclamation dated the 22nd March, 1975, issued under article 356, the introduction of the Nagaland Appropriation Bill, 1976 in Lok Sabha and also the consideration of the Bill.

2. The Bill will be introduced in Lok Sabha after all the Supplementary Demands for Grants for 1975-76 have been voted.

BILL No. 29 OF 1976

A Bill to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the Union territory of Pondicherry for the services of the financial year 1975-76.

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Pondicherry Appropriation Act, 1976.

Issue of Rs. 2, 39, 97,000 from and out of the Consolidated Fund of the Union territory of Pondicherry for the financial year 1975-76.

2. From and out of the Consolidated Fund of the Union territory of Pondicherry there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of two crores, thirty-nine lakhs and ninety-seven thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1975-76, in respect of the services specified in column 2 of the Schedule.

Appropriation.

3. The sums authorised to be paid and applied from and out of the Consolidated Fund of the Union territory of Pondicherry by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.

THE SCHEDULE

(*See* sections 2 and 3)

1	2		3		
			Sums not exceeding		
No. of Vote	Services and purposes		Voted by Parliament	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
2	Administrator . .	Revenue	..	*60,000*	60,000
4	Administration of Justice	Revenue	1,59,000	..	1,59,000
6	Revenue . . .	Revenue	5,47,000	..	5,47,000
7	Sales Tax . . .	Revenue	99,000	..	99,000
8	Taxes on Vehicles .	Revenue	31,000	..	31,000
9	Secretariat . . .	Revenue	1,66,000	..	1,66,000
10	District Administration .	Revenue	79,000	..	79,000
		Capital	2,90,000	..	2,90,000
11	Treasury and Accounts Administration . .	Revenue	1,91,000	..	1,91,000
12	Police	Revenue	12,66,000	..	12,66,000
13	Jails	Revenue	1,23,000	..	1,23,000
14	Stationery and Printing .	Revenue	1,14,000	..	1,14,000
15	Miscellaneous Administrative General Services .	Revenue	14,000	..	14,000
16	Retirement Benefits .	Revenue	[14,49,000	..	14,49,000
17	Public Works . .	Revenue	4,61,000	*36,000*	4,97,000
		Capital	11,52,000	*3,40,000*	14,92,000
18	Education . . .	Revenue	57,66,000	..	57,66,000
		Capital	5,000	..	5,000
19	Medical . . .	Revenue	66,33,000	..	66,33,000
20	Information and Publicity	Revenue	92,000	..	92,000
21	Labour and Employment	Revenue	2,81,000	..	2,81,000
22	Social Welfare . .	Revenue	11,69,000	*3,000*	11,72,000
23	Co-operation . .	Revenue	88,000	..	88,000
		Capital	3,78,000	..	3,78,000
25	Agriculture . . .	Revenue	3,77,000	..	3,77,000
26	Animal Husbandry] .	Capital	1,40,000	..	1,40,000

1	2		3		
No. of Vote	Services and purposes		Sums not exceeding		
			Voted by Parliament	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
28	Community Development	Revenue	4,83,000	..	4,83,000
29	Industries . . .	Capital	59,000	..	59,000
30	Food and Nutrition .	Revenue	88,000	..	88,000
31	Electricity . . .	Revenue	4,83,000	9,000	4,92,000
		Capital	12,88,000	..	12,88,000
32	Ports and Pilotage .	Revenue	12,000	..	12,000
33	Public Debt . .	Revenue	..	*50,000*	50,000
		Capital	..	*16,000*	16,000
	TOTAL		2,34,83,000	*5,14,000*	2,39,97,000

STATEMENT OF OBJECTS AND REASONS

This Bill is introduced in pursuance of sub-section (1) of section 29 of the Government of Union Territories Act, 1963, read with section 30 thereof, and the Presidential Order dated 28th March, 1974, issued in exercise of the powers conferred by section 51 of the said Act, to provide for the appropriation out of the Consolidated Fund of the Union territory of Pondicherry of the monies required to meet the supplementary expenditure charged on the Consolidated Fund of the Union territory of Pondicherry and the grants made by the Lok Sabha for expenditure of the Union territory of Pondicherry for the financial year 1975-76.

SUSHILA ROHATGI.

PRESIDENT'S RECOMMENDATION UNDER THE GOVERNMENT OF UNION TERRITORIES ACT, 1963

[Copy of letter No. F5(56)-B/75, dated the 23rd January, 1976 from Shrimati Sushila Rohatgi, Deputy Minister in the Ministry of Finance to the Secretary-General, Lok Sabha.]

The President, having been informed of the subject matter of the proposed Bill to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the Union territory of Pondicherry for the services of the financial year ending on the 31st day of March, 1976, recommends, under sub-sections (1) and (3) of section 23 of the Government of Union Territories Act, 1963, read with section 30(2) thereof and the Orders issued under section 51 of the Act, the introduction of the Pondicherry Appropriation Bill, 1976 in Lok Sabha and also the consideration of the Bill.

2. The Bill will be introduced in Lok Sabha after the Supplementary Demands for Grants for expenditure of the Union territory of Pondicherry for the year 1975-76 have been voted.

S. L. SHAKDHER,
Secretary-General.

PRINTED BY THE GENERAL MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI AND PUBLISHED BY THE CONTROLLER OF PUBLICATIONS, DELHI, 1976